MESSAGE FROM THE GOVERNOR.

The following message, transmitted through Mr. E. R. McLean, private secretary, was received from his Excellency, the Governor:

Executive Office,
Austin, Texas, May 13, 1897.

To the House of Representatives:

House bill No. 667, which is an act authorizing the counties of Galveston, Harris, Brazoria, Wharton, Calhoun and Victoria to issue bonds for the construction and maintenance of public roads and highways, is herewith returned without approval.

Under the Constitution, as interpreted by the Supreme Court, no debt can be incurred by a county unless provision is made at the time of creating it for levying and collecting a sufficient tax to pay the interest thereon and provide at least 2 per cent as a sinking fund. The tax which any county might levy under the original Constitution of 1876 for roads and bridges was 15 cents on the $100. By the amendment adopted in 1890, it is provided that the Legislature may also authorize an additional annual ad valorem tax, to be levied for the further maintenance of public roads, if a majority of the qualified property taxpaying voters of the county shall vote such tax, not to exceed 15 cents on the one hundred dollars. This amendment was put into operation by the act approved April 1, 1891, but it was expressly provided therein that no bonds should be issued under its provisions.

Every county named in the act under consideration has already levied the 15 cents authorized by the Constitution without a vote of the taxpayers, and apparently needs the revenue derived from that source for ordinary road and bridge purposes. In some of the counties affected bridges have been constructed for which bonds have been issued and a tax levied to pay interest and create a sinking fund. If the first tax available as already indicated is necessary for the current needs of the county for roads and bridges and the bridge bonds already issued, it may be (Bank v. Terrell, 78 Texas, 460) that before additional debts for that purpose can be created the tax therefor must be authorized by a vote of the taxpayers. No provision, however, is made in this bill to submit the question of taxation to the people, but it is proposed to give the counties direct authority to issue bonds. It is not clear under which of these tax provisions it is proposed to issue bonds, but presumably it is under the first, and this important matter should not be left in doubt. If under the first, it seems from inquiries made of the county judges that the entire tax is needed for current purposes and existing bonds, which would leave no tax for the new bonds, and without it they would be void; if under the second, provision is not made for submission to the taxpayers, which is a prerequisite of legality.

It is submitted, also, that the policy of the act of 1891 in prohibiting the issue of bonds for the construction of county roads should not be departed from. This is particularly true unless the taxpayers by a direct vote shall voluntarily assume this additional burden, and in view of the many purposes for which bonds may now be issued. Authority lodged in counties to issue negotiable coupon bonds is far more dangerous and burdensome than the power to contract ordinary debts, because with the last many defenses are allowable which are denied in the case of negotiable bonds which have passed into the hands of innocent purchasers for value. Under the operation of this rule, bonds in the hands of third parties, though wrongfully issued, must nevertheless be paid, while the counties would be relieved of payment if the unjust claims rested in ordinary contracts. Besides this, bonds usually run for long periods of time, the tax to pay them is irrepealable and practically perpetual, and against it there is no relief, as would be the case with specific simple contracts to improve and maintain the roads. Already counties may issue funding, court house, jail and bridge bonds, and the bonded debt of some of the counties named approaches the constitutional limit. The taxation necessary to provide for these bonds and current expenses, added to that of the towns or cities, often renders the local rate of taxation in these times of depression high if not oppressive, and the situation should not be aggravated by a bond measure under which by its express terms taxation is only limited by the Constitution.

C. A. CULBERSON.